

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
GREENSBORO DIVISION  
CIVIL ACTION NO: 1:10-cv-00568**

**IHFC PROPERTIES, LLC** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **APA MARKETING, INC.** )  
 **and WHALEN FURNITURE** )  
 **MANUFACTURING, INC.,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**NOTICE OF REMOVAL**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

**PLEASE TAKE NOTICE** that the Defendant Whalen Furniture Manufacturing, Inc. (hereinafter “Whalen”), pursuant to 28 U.S.C. Sections 1441 and 1446, hereby gives notice that it has removed from the General Court of Justice, Superior Court Division for Guilford County, North Carolina, the action encaptioned IHFC Properties, LLC v. APA Marketing, Inc. and Whalen Furniture Manufacturing, Inc. (File #10 CvS 1144) to this Court, the United States District Court for the Middle District of North Carolina, and shows the following grounds for said removal:

1. On June 22, 2010, the Plaintiff filed this action in the General Court of Justice, Superior Court Division for Guilford County, North Carolina, in File No. 10 CVS 1144. A copy of the verified Complaint and Summons issued for the Defendant Whalen are attached hereto as Exhibit A in accordance with 28 U.S.C. Section 1446(a).

2. The Defendant Whalen was served with said Summons and Complaint via its registered agent by certified mail on June 24, 2010. This Notice of Removal has been timely filed within 30 days after service of the above-referenced state action on the Defendant Whalen.

3. The Plaintiff's state court Complaint alleges that both named Defendants are "foreign" corporations with respect to the State of North Carolina. [Ex. A, Par. 2 & 3]. Both Defendants are registered California corporations in good standing with the Defendant Whalen's principal place of business in San Diego, California, and, upon information and belief, the Defendant APA Marketing Inc.'s principal place of business in Irvine California. The Defendant Whalen was at the time of the filing of this action, and still is, a citizen of the State of California.

4. Upon information and belief, the Plaintiff was, and still is, a registered Delaware limited liability company authorized to transact business in the State of North Carolina with its principal place of business in High Point, North Carolina, and thus a citizen of the State of North Carolina.

5. The Plaintiff's state court Complaint alleges and prays for damages "in the amount of \$164,327.96, plus interest at the contract rate of 18% per annum from May 10, 2010, until paid in full, plus attorney's fees in the amount of \$24,649.19. [Ex. A, Par. 18 and Prayer, Par. 1].

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. Section 1332(a) and the action is removable pursuant to 28 U.S.C. Section 1441(b) based on diversity jurisdiction in that the matter in controversy is reasonably

expected to exceed \$75,000, exclusive of interest and costs, and the parties are citizens of different states.

7. This Notice of Removal was served upon all parties and is being filed with the Clerk of The General Court of Justice, Superior Court Division for Guilford County, North Carolina as provided for pursuant to 28 U.S.C. Section 1446(d).

**WHEREFORE**, the Defendant Whalen Furniture Manufacturing, Inc. prays that the above-referenced action presently pending in the General Court of Justice, Superior Court Division of Guilford County, North Carolina in File #10 CvS 1144, be removed to this Court, as provided by law, and, pursuant to 28 U.S.C. Section 1446(d), that the Guilford County Superior Court proceed no further unless and until this case is remanded.

This the 22<sup>nd</sup> day of July, 2010.

/s/Jeffrey T. Workman  
N. C. State Bar #22395  
Attorneys for Defendant Whalen Furniture  
Manufacturing, Inc.  
Tate Gaylord Lucas Purdom & Workman LLP  
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## **CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and accurate copy of the foregoing Notice of Removal was served by U. S. Mail, Postage pre-paid and addressed as follows:

Andrew S. Lasine  
Attorney for IHFC Properties, LLC  
Keziah, Gates, LLP  
P. O. Box 2608  
High Point, North Carolina 27261

APA Marketing Inc.  
c/o Alfred Schwerin, Registered Agent  
9647 Lark Circle  
Fountain Valley, California 92708

This the 22<sup>nd</sup> day of July, 2010.

**TATE, GAYLORD, LUCAS, PURDOM & WORKMAN, LLP**

By: /s/Jeffrey T. Workman  
Jeffrey T. Workman  
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